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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

This Document Relates to:

ALL ACTIONS

Case No. 3:23-md-03084-CRB

**DEFENDANTS UBER TECHNOLOGIES,
INC., RASIER, LLC, RASIER-CA, LLC'S
POSITION ON THE CURRENT STATUS
OF PRIVILEGE REVIEW [ECF 2336]**

Judge: Hon. Lisa J. Cisneros

Courtroom: G – 15th Floor

DEFENDANTS' POSITION ON THE CURRENT STATUS OF PRIVILEGE REVIEW

Pursuant to Master Order No. 1 (ECF 2336), Defendants Uber Technologies, Inc., Rasier, LLC, and Rasier-CA, LLC respectfully submit this report on the current status of privilege review.

I. RE-REVIEW OF CHALLENGED PRIVILEGE LOG DESIGNATIONS

This litigation includes a vast amount of information from a total of 55 custodians and numerous non custodial sources, and spans a time period of nearly 16 years. Many of these custodians regularly interact with inside and outside legal counsel, and the relevant time period now stretches, by order of the Court, well beyond (more than a year) after the commencement of this litigation. The total number of documents produced to date by Defendants is approximately 800,000, and a small percentage of that total are subject to a claim of legal privilege. As the Master is well aware, the process of constructing a detailed privilege log (in this case containing almost 30 metadata fields of information about the documents withheld or with redactions applied) is complex and may be imperfect, as recognized by the Federal Rules and decisional law. For their part, Defendants have devoted enormous resources to preparing their privilege logs, under exceedingly tight deadlines not required in other litigations of this scope and complexity. Defendants have voluntarily provided additional information to Plaintiffs on the log in order to facilitate Plaintiffs' review and consideration of the log entries. And significantly, the Court has upheld in full or in part Defendants' privilege claims to the vast majority of documents presented to the Court. In December 2024, the Court upheld in full or in part Defendants' privilege claims to 92% of the challenged documents (12 out of 13 documents), and in January 2025, the Court upheld in full or in part Defendants' privilege claims to 84% of the challenged documents (16 out of 19 documents).

On their own initiative and pursuant to the Court's January 29, 2025 Order (ECF 2168), Defendants have been re-reviewing privilege log entries and underlying documents with a pending challenge from Plaintiffs. When the parties filed their stipulation outlining the agreed-upon re-review process on January 31, 2025 (ECF 2304), Plaintiffs had 20,992 active challenged entries. As of February 14, 2025, 18,927 of those entries remain challenged following Defendants' re-review of the first six custodial files. The slightly reduced number of outstanding challenged entries is a result of

Defendants continuing to apply the Court's prior guidance and rulings on privilege challenges, including up through the Court's January 29 Order. That number of outstanding challenges will continue to decrease as more documents that are no longer subject to a claim of privilege are produced in full, and/or with appropriate redactions following the re-review. Defendants expect that Plaintiffs, too, have a continuing obligation to re-review their own privilege challenges in light of the Court's orders—including the December 21, 2024 Order (ECF 2005) specifically requiring Plaintiffs to withdraw challenges that are no longer warranted in light of lessons learned from the dispute resolution process. Defendants respectfully posit that the requirement to undertake a re-review to sharpen the focus of challenges subject to review by the Master is, and must be, bilateral. Since the Court's January 29 Order, however, Plaintiffs have not withdrawn any challenges.

a. Custodians for Whom Defendants Have Completed the Re-review of Challenged Privilege Designations.

Defendants have completed re-reviewing the documents associated with Plaintiffs' 3,872 challenges associated with the files of the six custodians identified in the chart below. Defendants have produced de-designated and redacted documents along with an updated privilege log. Defendants undertook this work under very short deadlines given the then-pending deposition dates, and with little time to assimilate the Court's January 29, 2025 Order rulings into the re-review process. Since the production of this revised log and the documents over which a claim of privilege was previously asserted, 1,777 challenged privilege log entries remain for these custodial files. As of February 14, 2025, Plaintiffs have not withdrawn any of their challenges for these entries. As discussed in the February 12, 2025 Conference, Defendants' believe the most pragmatic approach is to set these log entries and challenges to those entries to be evaluated at the end of the Master re-review process. At that time, both sides will have had more opportunity to review their respective positions, descriptions, and challenges, perhaps narrowing any issues in dispute.

Custodial File	Deposition Date	Date of Production of De-Designated and Redacted Documents and Revised
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		Privilege Log
Chad Fogg	February 5, 2025	February 3, 2025
Cory Freivogel	February 6, 2025	February 4, 2025
Nairi HourDajian	February 7, 2025	February 5, 2025
Kate Parker	February 14, 2025	February 11, 2025
David Richter	February 24, 2025	February 11, 2015
Megan Joyce	February 26, 2025	February 14, 2025

b. Schedule For Completion of Re-Review of Remaining Custodial Files

The parties stipulated on February 7, 2025 (ECF 2304) that Defendants will complete the re-review of Plaintiffs' 1,352 challenged privilege log entries associated with the following two custodial files, and will produce de-designated and redacted documents, if any, along with a revised privilege log by the following dates.

Custodial File	Deposition Date	Date of Production of De-Designated and Redacted Documents and Revised Privilege Log
Jenny Luu	February 27, 2025	February 18, 2025
Kayla Whaling	February 28, 2025	February 18, 2025

For custodians with a deposition scheduled before March 20, 2025, the parties have discussed during conferrals on February 4, 2025 and February 6, 2025, and during the February 12, 2025 status conference before the Master, that Defendants anticipate completing the re-review of Plaintiffs' challenged privilege log entries associated with the custodial files, and produce de-designated and redacted documents, if any, along with a revised privilege log in accordance with the following

1 schedule. Defendants understand from the February 12, 2025 Conference with the Master that the
 2 Master re-review process would commence with review of challenged entries in connection with the
 3 March depositions, starting with Tracey Breeden. Defendants believe the schedule below, which was
 4 discussed between the parties during the conferral process and during the February 12 Conference,
 5 would be required to permit Defendants sufficient opportunity to re-review the log entries and
 6 underlying documents following the January 29, 2025 Order ruling on exemplary privilege challenges,
 7 as well as the February 6, 2025 Order of the Court appointing the Master.

Custodial File	Deposition Date	Date of Production of De- Designated and Redacted Documents and Revised Privilege Log
Pat Twomey	March 7, 2025	February 25, 2025
Tracey Breeden	March 13, 2025 and March 14, 2025	March 3, 2025
Jill Hazelbaker	Ms. Hazelbaker's deposition that was scheduled for March 17 needs to be rescheduled. Uber has offered May 21 or 22. The parties will also discuss other possible dates in April or May. Ms. Hazelbaker's deposition will be subject to motion practice.	N/A
Catherine Gibbons	March 19, 2025	March 10, 2025

18 For all other privilege log entries and related documents with a challenge from Plaintiffs as of
 19 January 31, 2025, Defendants anticipate completing their re-review, and production of de-designated
 20 and redacted documents, if any, along with a revised privilege log by March 10, 2025.

21 **II. FORTHCOMING PRODUCTIONS AND PRIVILEGE LOGS FOR DOCUMENTS CREATED THROUGH DEC. 1, 2024**

Based on the Court's January 1, 2025 Order (ECF 2028) expanding the scope of potentially relevant documents to include documents through December 1, 2024 (more than one year after commencement of this litigation, and well after commencement of the first JCCP-related litigation), Defendants will make additional custodial productions and provide related privilege logs on the following dates:

Production Date	Privilege Log Production
February 21, 2025: Non-Slack and Non-Google Drive documents for 11 priority custodians selected by Plaintiffs: Brooke Anderson, Frank Chang, Cory Freivogel, Gus Fuldner, Cassie Hawk, Jill Hazelbaker, Roger Kaiser, Sachin Kansal, Dara Khosrowshahi, Katy McDonald, Jenny Luu	March 3, 2025, per PTO 20 timeline for serving privilege logs following document productions
March 4, 2025: Slack and Google Drive documents for the 11 priority custodians listed above	March 14, 2025, per PTO 20 timeline for serving privilege logs following document productions
March 14, 2025: Documents for the remaining 15 custodians with data dated after November 27, 2023: Mike Akamine, Matt Baker, Greg Brown, Abbie Ding, Chad Fogg, Catherine Gibbons, Andrew Hasbun, Jodi Kawada Page, Sarfaz Maredia, Susan Muehrcke, Niraj Patel, Andi Pimentel, Danielle Sheridan, Troy Stevenson, Mark Sullivan	March 24, 2025, per PTO 20 timeline for serving privilege logs following document productions

III. DEPOSITION SCHEDULE

A. Completed Depositions

The following four custodians have been deposed in the MDL:

Deponent	Deposition Date
Chad Fogg	February 5, 2025
Cory Freivogel ¹	February 6, 2025
Nairi Hourdajian	February 7, 2025
Kate Parker	February 14, 2025

B. Upcoming Confirmed Depositions

The following 28 custodians have confirmed deposition dates as of the time of this submission. This is consistent with the deposition schedule provided by Plaintiffs (ECF 2327) as modified by Defendants (ECF 2329) in the February 12, 2025 submissions to the Master, with a minor correction that Jordan Burke's deposition will be on March 20 *and* 21:

Deponent	Deposition Date(s)
David Richter	February 24, 2025
Meghan Joyce	February 26, 2025
Jenny Luu	February 27, 2025
Kayla Whaling	February 28, 2025
Pat Twomey	March 7, 2025
Tracey Breeden	March 13, 2025 and March 14, 2025
Catherine Gibbons	March 19, 2025
Jordan Burke	March 20, 2025 and March 21, 2025
Carley Lake	March 20, 2025 and March 21, 2025

¹ Plaintiffs expressed their intent to leave Mr. Freivogel's deposition open. The parties will meet and confer regarding whether an additional deposition of Mr. Freivogel is warranted and, if so, the parameters of any such additional deposition.

1	Michael Sullivan	March 26, 2025
2	Gus Fuldner	March 26, 2025 and March 27, 2025
3	Dennis Cinelli	March 28, 2025
4	Abbie Ding	April 3, 2025
5	Brooke Anderson	April 3, 2025 and April 4, 2025
6	Cassie Hawk	April 8, 2025
7	Rachel Holt	April 9, 2025
8	Andrew Hasbun	April 10, 2025 and April 11, 2025
9	Katherine McDonald	April 15, 2025 and April 16, 2025
10	Valerie Shuping	April 17, 2025 and April 18, 2025
11	Ryan Graves	April 24, 2025 (placeholder date pending resolution of motion practice)
12	Mat Henley	May 6, 2025 (placeholder date pending resolution of motion practice)
13	Frank Chang	May 8, 2025 and May 9, 2025 (placeholder date pending resolution of motion practice)
14	Sarfraz Maredia	May 13, 2025 (placeholder date pending resolution of motion practice)
15	Faiz Bushra	May 13, 2025 and May 14, 2025
16	Rachel Whetstone	May 14, 2025 (placeholder date pending resolution of motion practice)
17	Sachin Kansal	May 15, 2025 (placeholder date pending resolution of motion practice)

Mike Akamine	May 19, 2025 and May 20, 2025 (placeholder date pending resolution of motion practice)
Cameron Poetzscher	June 4, 2025

C. Anticipated Deponents Not Yet Scheduled

Plaintiffs have expressed the desire to take the following anticipated deponents, but a confirmed deposition date has not been established as of the time of this submission:

Deponent	Status
Barnes, William	Uber has not been able to establish contact with Mr. Barnes. Contact information was sent to Plaintiffs on January 16, 2025.
Hazelbaker, Jill	Ms. Hazelbaker's deposition that was scheduled for March 17, 2025 needs to be rescheduled. Uber has offered May 21 or 22, 2025. The parties will also discuss other possible dates in April or May. Ms. Hazelbaker's deposition will be subject to motion practice.
Kaiser, Roger	Uber provided deposition dates in March and May. Plaintiffs request dates in April.
Kalanick, Travis	Uber provided deposition dates in May. Plaintiffs request dates in June. Mr. Kalanick's deposition will be subject to motion practice.
Khosrowshahi, Dara	Uber provided a deposition date in May. Plaintiffs request dates in June. Mr. Khosrowshahi's deposition will be subject to

1		motion practice.
2	Marshall, Jeff	Uber has not been able to establish contact with
3		Mr. Marshall. Contact information was sent to
4		Plaintiffs on January 16, 2025.
5	Sheridan, Danielle	Ms. Sheridan's deposition that was scheduled for
6		April 7 and 8, 2025 needs to be rescheduled.
7		Uber has offered May 6–9, 2025.
8	Sullivan, Joe	Mr. Sullivan's counsel has not provided his
9		availability. Contact information was sent to
10		Plaintiffs on January 16, 2025. Mr. Sullivan's
		deposition will be subject to motion practice.

11 DATED: February 14, 2025

Respectfully submitted,

12 **SHOOK HARDY & BACON L.L.P.**

13 By: /s/ Michael B. Shortnacy
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